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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 v.
14 REGINALD OWENS,
15 Defendant.
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Case No. 97cr2546-CAB; 16cv1564-
CAB; 16cv1636-CAB

**ORDER: (1) LIFTING STAY; AND 2)
DENYING AS MOOT MOTION
UNDER 28 U.S.C. SECTION 2255 TO
VACATE, SET ASIDE OR
CORRECT A SENTENCE [Doc. No.
65]**

18 On June 21, 2016, Defendant/Petitioner filed a motion under 28 U.S.C. § 2255 to
19 vacate, set aside, or correct a sentence (the “2255 motion”). [Doc. No. 65.] On July 1,
20 2016, this Court issued an order staying the motion pending a decision by the Ninth
21 Circuit in 14-10080, *United States v. Begay*. [Doc. No. 67.]

22 On April 20, 2018, Defendant/Petitioner filed a motion to lift the stay in light of
23 the Supreme Court’s decision in *Sessions v. Dimaya*, __ S. Ct. __, 2018 WL 1800371
24 (U.S. Apr. 17, 2018). [97cr2546, Doc. No. 69.] On January 10, 2019, the Court denied
25 the motion to lift the stay. [Doc. No. 74.]

26 On July 18, 2019, the Ninth Circuit Court of Appeals issued an order regarding an
27 application for authorization to file a second or successive 28 U.S.C. §2255 motion filed
28 in Ninth Circuit No. 18-71013. [Doc. No. 75.] The Ninth Circuit denied the motion as

unnecessary because the applicant (Petitioner Reginald Owen) already has a section 2255 motion pending in this Court. *Id.* The Ninth Circuit further ordered the proposed section 2255 motion be filed in this action as a motion to amend the currently pending 2255 motion. *Id.* That motion to amend is now filed in this action as docket no. 76.

On August 6, 2019, this Court issued an order lifting the stay to address the motion to amend, and set a briefing schedule. [Doc. No. 77.] On September 12, 2019 this Court issued an order denying the motion to amend and reinstating the stay. [Doc. No. 79.]

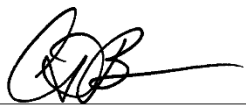
On October 21, 2019, Defendant filed a motion to reduce sentence pursuant to 18 U.S.C. §3582 (First Step Act). [Doc. No. 81.] Following further briefing by the government and Defendant [Doc. Nos. 87, 90-92], the Court granted Defendant's motion to reduce sentence under the First Step Act. [Doc. No. 93.] Following a telephonic hearing [Doc. No. 95], the Court issued an Amended Judgment sentencing Defendant to a term of imprisonment of time served as to all counts, concurrent [Doc. No. 96], and issued an Abstract of Order for Defendant to be released from custody [Doc. No. 97].

Given that Defendant will henceforth be released from custody, the Court
HEREBY ORDERS AS FOLLOWS:

1. The stay as to Defendant's 2255 motion is **HEREBY LIFTED**;
2. The 2255 motion is **HEREBY DISMISSED AS MOOT**;
3. The corresponding civil cases, 16cv1564 and 16cv1636, are **HEREBY DISMISSED WITHOUT PREJUDICE.**

IT IS SO ORDERED.

Dated: March 25, 2020



Hon. Cathy Ann Bencivengo
United States District Judge